

REMARKS

The present Amendment is in response to the Office Action of August 11, 2004.

Favorable reconsideration is respectfully requested in view of the foregoing amendments, and the argument and comments which follow:

In the Office Action, the Examiner has rejected claims 5 - 18 over a variety of prior art references. These rejections will be addressed in turn.

Claim 5, 6 and 8 were rejected under section 102 as anticipated by the patent to Totty. Applicants amend the claims and comment as follows:

Applicants submit that the Examiner misreads the Totty disclosure. Although this reference indeed relates to an EL lamp placed on a boat, the similarity between the claimed subject matter and the present invention ends at that point. The Examiner states that Totty "teaches the electroluminescent lamp attachable to a small vessel, canoe, rowboat, motorboat and yachts or sails or oars". This is an inaccurate statement of Totty's teachings. The reference relates to an EL light for night fishing, which is "moveably mounted on a boat" (see, col. 2, line 4). Totty does not teach an EL lamp attachable to sails or oars. Sails or oars are given merely as common methods of propulsion.... "the invention is used on small vessels 8 propelled on water by engines, oars or sails" (see col. 1 line 65 - col. 2, line 1). Accordingly, Totty does not anticipate claim 5, which explicitly claims an EL lamp "attached to [a] sail structure". It is noted further in this regard that Totty discloses and depicts only a typical light fixture (having an EL lamp inside) moveably attached to the gunwale of a boat. The fact that the boat may be a sailboat does not alter this fact.

With respect to claims 6 and 8, these claims have been amended in order to distance them further from the disclosure of Totty. Claim 6 now specifies that the EL lamp is recessed in an outer surface of the structure, which further distinguishes over the portable lamp of Totty, which is not intended to be, and would not function properly if, recess mounted. Claim 8 has been amended to indicate that the EL lamp of the invention “outlines” the outer surface of the structure, as seen in Fig. 29, for example. Obviously, Totty’s portable fishing light performs no such function, and has no such structure.

Claims 7, 10 - 12 and 16 were rejected under section 103 as obvious over Totty. However, the Examiner here mistakenly states that Applicant’s structural limitations in claims 7 and 10 - 12 are merely statements of intended use. This is incorrect. Claims 7 and 10 - 12 are combination claims, and the Examiner is not free to ignore the elements of the combination. Accordingly, these claims should now be allowable outright. With respect to claim 16, the Examiner’s statement that boats “normally have railing structures” is no substitute for an actual teaching of “an electroluminescent lamp elongated along a railing structure”, as specifically claimed. In the absence of prior art suggesting this feature, claim 16 is clearly allowable.

Claim 9 was rejected over the combination of Totty and Zei. This rejection is now moot, inasmuch as claim 9 has been cancelled. To the extent that this combination may be considered applicable to claim 6, Applicant would firstly submit that the Examiner has not and cannot show motivation to combine a fishing light with an aircraft carrier landing deck. Secondly, claim 6 clearly claims non-navigational lighting; whereas the lighting of Zei has navigation as its sole purpose.

Claims 13 - 15 were rejected over the combination of La Vasseur and Chein. The Examiner apparently relies upon the “immersibility” of the former and the “recess” mounting of the latter reference. Again, Applicant questions both the logic and motivation of combining a mermaid suit with a construction worker’s vest, and would submit that this combination has been contrived through hindsight. Furthermore, although Chein is relied upon for recess mounting of an EL lamp, it does not in fact disclose such a feature. It is apparent from Chein that his EL lamps are surface mounted by Velcro. Chein’s vest does not have, nor does it mount lighting within, a recess.

Finally, claims 17 and 18 were rejected as obvious over the combination of Totty and Kickert. This rejected fails for the same reason as the rejection of claim 5; namely, neither reference discloses or suggests an EL lamp attached to a sail or sail structure. The Examiner’s misreading of the Totty reference on this point has been elaborated upon above.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Amendment Under 37 C.F.R. § 1.111
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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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